



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/168902

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 2015, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services to discontinue FoodShare benefits (FS), a hearing was held on October 13, 2015, by telephone.

The issue for determination is whether petitioner complied with FS work program requirements.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS as a one-person household. He completed an FS renewal on June 5, 2015. Because his case was confirmed after April 1, 2015, he became subject to FS Employment and Training (FSET) requirements effective July 1, 2015. Petitioner answered no to the questions concerning possible work program exemptions, including whether he cared for a child under age six.

3. The FSET agency scheduled an orientation appointment on June 5 by leaving a message with petitioner on his voice mail. Petitioner did not attend. The agency then scheduled four additional appointments, the last on July 20, by mailing notices to petitioner's mailing address. Petitioner attended none of the appointments.
4. Petitioner went to the FSET agency on July 29, 2015 and claimed to care for his seven-month old daughter. The agency asked for verification. Petitioner did not provide verification. He also did not mention that he was employed.
5. By a notice dated September 18, 2015, the agency informed petitioner that FS would end October 1, 2015 because his three-month time-limited benefits were ending.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if he is unfit for employment or is caring for a child under age six. Handbook, §3.17.1.5. Petitioner not only is fit for work, he testified that he was working during the period even though he never reported the employment. He did not mention caring for his daughter during the hearing.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. Handbook, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). Handbook, §3.17.1.11.

Clearly petitioner did not meet any work requirements in the three months beginning July 1, 2015. Although he testified that he was working, he never reported the job and provided no proof at the hearing. He testified that the people at his mailing address did not give him his mail. There is no good cause exception for failing to meet the requirements (and even if there was I would not find these circumstances to be good cause because it is petitioner's obligation to get the mail at the address he listed as his mailing address). The reason that good cause is not allowed is that the person can regain eligibility simply by complying with the work requirement for 30 days. That is what petitioner must do to regain FS eligibility.

CONCLUSIONS OF LAW

The agency correctly discontinued FS because petitioner did not comply with work requirements during three eligibility months.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 14th day of October, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 14, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability